

Order

Michigan Supreme Court
Lansing, Michigan

September 22, 2021

Bridget M. McCormack,
Chief Justice

154994 & (71)

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 154994
COA: 325834
Macomb CC: 2009-005243-FC

ROBERT TAYLOR,
Defendant-Appellant.

By order of October 21, 2020, the application for leave to appeal the September 22, 2016 judgment of the Court of Appeals was held in abeyance pending the decision in *Jones v Mississippi*, cert gtd ___ US ___; 140 S Ct 1293; 206 L Ed 2d 374 (2020) (Docket No. 18-1259). On order of the Court, the case having been decided on April 22, 2021, 593 US ___ (2021), the application is again considered, together with the motion to supplement. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1).

The motion to supplement is GRANTED to the extent that the appellant, by counsel of record, shall file a supplemental brief addressing whether, in exercising its discretion to impose a sentence of life without parole (LWOP), the trial court properly considered the “factors listed in *Miller v Alabama*, [567 US 460] (2012)” as potentially mitigating circumstances. MCL 769.25(6). See also *People v Skinner*, 502 Mich 89, 113-116 (2018). In particular, the parties shall address: (1) which party, if any, bears the burden of proof of showing that a *Miller* factor does or does not suggest a LWOP sentence; (2) whether the sentencing court gave proper consideration to the defendant’s “chronological age and its hallmark features,” *Miller*, 567 US at 477-478, by focusing on his proximity to the bright line age of 18 rather than his individual characteristics; and (3) whether the court properly considered the defendant’s family and home environment, which the court characterized as “far from optimal,” as weighing against his potential for rehabilitation. The appellant’s brief shall be filed by December 20, 2021, with no extensions except upon a showing of good cause. In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant’s brief. A reply, if any, must be filed by the appellant within 14 days of being served with the

appellee's brief. The parties should not submit mere restatements of their application papers.

The Criminal Defense Attorneys of Michigan, the Prosecuting Attorneys Association of Michigan, and the University of Michigan Juvenile Justice Clinic are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 22, 2021

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk